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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/507,941  | 02/22/2000  | Masato Ochiai        | 35.C14278           | 2960             |
| 5514  | 7590        | 07/13/2005           | EXAMINER            |                  |
| FITZPATRICK CELLA HARPER & SCINTO<br>30 ROCKEFELLER PLAZA<br>NEW YORK, NY 10112 |             |                      | ENGLAND, DAVID E    |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2143                |                  |

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                              |                  |  |
|------------------------------|------------------------------|------------------|--|
| <b>Office Action Summary</b> | Application No.              | Applicant(s)     |  |
|                              | 09/507,941                   | OCHIAI, MASATO   |  |
|                              | Examiner<br>David E. England | Art Unit<br>2143 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 February 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1, 2, 4, 6, 8 – 10, 12, 13, 15, 17, 19 – 21, 34 and 47 – 49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1, 2, 4, 6, 8 – 10, 12, 13, 15, 17, 19 – 21, 34 and 47 – 49 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. Claims 1, 2, 4, 6, 8 – 10, 12, 13, 15, 17, 19 – 21, 34 and 47 – 49 are presented for examination.

*Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4, 5, 12, 13, 15, 34 and 47 – 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beser (6189102) in view of Tanimoto et al. (6075776) (hereinafter Tanimoto).
4. Referencing claim 1, as interpreted by the Examiner, Beser teaches a network apparatus comprising:
  5. a receiving unit adapted to receive data from a network by using a predetermined protocol, (e.g. col. 14, line 38 – col. 16, line 35);
  6. a detecting unit adapted to receive a predetermined value in a packet header of the data received by said receiving unit, the packet header being provided for the predetermined protocol, (e.g. col. 14, line 38 – col. 16, line 35, “*HOPS 116, XID 118, FLAGS 122, TLV*”); and

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7. a setting unit adapted to set a destination logic address of the received data as a logic address of said network apparatus in a case where the predetermined value is detected by said detecting unit and a destination physical address of the received data and a physical address of said network apparatus are the same, (e.g. col. 14, line 38 – col. 16, line 35, “*BOOTP*”), but does not specifically teach setting a destination logic address in a packet header of the received data as a logic address of said network apparatus. Tanimoto teaches setting a destination logic address in a packet header of the received data as a logic address of said network apparatus, (e.g., col. 6, lines 33 – 50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Tanimoto with Beser because setting the destination IP address in the echo request will give the source node the destination IP address which could be used for future transmissions.

8. Referencing claim 2, as interpreted by the Examiner, Beser teaches in a case where the destination logic address of the received data and the logic address of said network apparatus differ, the destination physical address of the received data and the physical address of said network apparatus are the same, and the predetermined value is detected by said detecting unit, said setting unit sets the destination logic address of the received data as logic address of said network, (e.g. col. 14, line 38 – col. 16, line 35, “*BOOTP*”).

9. Referencing claim 4, Beser said physical address is a media access control address, and the logic address is an Internet protocol address, (e.g. col. 14, line 38 – col. 16, line 35 & col. 18, line 49 – col. 19, line 16).

10. Claims 12, 13, 15, 34 and 47 – 49 are rejected for similar reasons as stated above.

11. Claims 6, 8 – 10, 17 and 19 – 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beser and Tanimoto in view of Anderson et al. (5850388) (hereinafter Anderson).

12. Referencing claim 6, Beser and Tanimoto do not specifically teach the received data is an ICMP echo message by an ICMP protocol and the predetermined value indicates a data length of the ICMP echo message. Anderson teaches the received data is an ICMP echo message by an ICMP protocol and the predetermined value indicates a data length of the ICMP echo message, (e.g. col. 12, lines 22 – 56 & col. 20, line 54 – col. 21, line 30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Anderson with the combine system of Beser and Tanimoto because it would be more efficient for a system to not have to shut down an end system and turn back on to receive a new IP address as with the functionality of BOOTP. Using an ICMP echo would allow a user to keep the end system on and receive a new IP address without the burden of turning the end system off. Furthermore, utilizing a data length, sometimes known as a “checksum” or “CRC”, allows the end system to check for errors in the packet if the data length is not to a predetermined length.

13. As per claim 8, Beser and Tanimoto do not teach the predetermined value indicates a TTL value of the received data. Anderson teaches the predetermined value indicates a TTL value

of the received data, (e.g. col. 21, line 59 – col. 22, line 24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Anderson with the combine system of Beser and Tanimoto because it is more efficient for a packet to have a TTL field in a packet so if the packet is taking too long to be transmitted through the Internet the packet could be dropped and aid in congestion control in a network.

14. Claims 9, 10, 17 and 19 – 21 are rejected for similar reasons stated above.

*Response to Arguments*

15. Applicant has pointed out in a telephonic interview that the Office Action dated 01/14/2005 was premature because of the request for suspension of action on the application under 37 C.F.R. 1.103(c). Examiner acknowledges this and therefore the Rejections of Office Action dated 01/14/2005 are withdrawn.

16. Applicant is asked to contact the Examiner for possible claim amendment ideas and to discuss interpretations of the claims as they stand so to further prosecution.

17. Applicant's arguments with respect to claims 1, 2, 4, 6, 8 – 10, 12, 13, 15, 17, 19 – 21, 34 and 47 – 49 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 571-272-3912. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David E. England  
Examiner  
Art Unit 2143

De



DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
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